

State of Nevada

Department of Business & Industry

Real Estate Division

Common-Interest Communities and Condominium Hotels Program



Records & Record Management



Disclaimer

This is a general education class based on NRS 116 and related laws and regulations. It is NOT intended to provide legal advice. The instructor CANNOT comment on specific cases. If you feel there has been a violation of your governing documents or NRS116 statute you can file a complaint with the Ombudsman's office.



Learning Objectives

Upon completion of this class, participants will have a basic understanding of...

I. Records Management

Basic understanding

Benefits of Record Management

II. Association Records Management

People Involved

Types of records listed in NRS

III. Record Review

Actions required to request records

Availability of records

Types of records requiring review

IV. Records Storage

Storage requirements



Records & Records Management



What Is Records Management

- ▶ Records Management : a process involving the creation, maintenance, use, and disposal of records to aid in the achievement of efficient business practices and regulatory compliance.
- ▶ Records Management is concerned with making sure that what needs to be kept as a record is retained, but also prescribing how long it should be kept, where it should be stored, who has access to it, and when it should be destroyed (if ever).

Florida Gulf Coast University, *What is records management*. Retrieved from <http://www.fgcu.edu/RecordsManagement/what-is-records-managment.html>

Records Management

- ▶ Records management identifies for the association what records are needed for daily operations
- ▶ Preserve the integrity and confidentiality of the associations most important records and safeguards the vital information
- ▶ To ensure regulatory compliance
- ▶ To ensure compliance with the governing documents
- ▶ To control creation and destruction of records
- ▶ To foster professionalism allowing the Association, CAM, BOD to focus on important tasks at hand





Florida Gulf Coast University, *What is records management*. Retrieved from <http://www.fgcu.edu/RecordsManagement/what-is-records-managment.html>

Basics of Recordkeeping

- ▶ Identify what records are required per statute.
- ▶ Identify what records require review. Setup a review schedule.
- ▶ Maintain those records in a way that allows all persons who need access to find and retrieve what they need.
- ▶ Remove or destroy records only with authorization; don't retain records authorized for destruction.
- ▶ Keep official records separate from non-record materials.
- ▶ Make someone responsible for the records program.
- ▶ Do all of this in a manner that is as cost effective as possible.

10 COMMANDMENTS OF RECORDS MANAGEMENT, Retrieved from <http://www.doi.gov/archive/ocio/records/tools/questions.html>

Good Recordkeeping = Useful Documentation

- ▶ Can be searched:
Easily attainable
Reconstruct every event in association's history
- ▶ Can protect the association:
Demonstrate key decisions made timely,
professionally
Proof of compliance to laws and regulations
- ▶ Can protect directors:
Demonstrate how fiduciary duty was exercised
Decisions and documentation of material aiding
decision



Key Association Documents

Financial Statements

- Is the CIC financially sound?
- Operating budgets ..Revenues and expense

Reserve Study

- Are the reserves adequately funded?
- Reserve funds

Meeting Minutes

- Information to be used to bring new board members up to date on community issues
- Past decisions



Methods of Recording

Manual

Mechanical

Photographic

Audio recording

Electronic (digital), or any other combination of these or other technologies

Creators of records

Government agencies

Developers

Board of Directors secretary

Board Members

Community Managers

Outside business agencies

Reserve Study Specialists

Legal & Financial Specialists

Vendors

Custodian of records

- ▶ Typically the community manager

- ▶ May be association's attorney

- ▶ May be secretary or other officer

The custodian must be able to:

- Handle requests for copies
- Access records regularly and keep them updated
- Ensure records & confidential information protected

Know where all the records are!



Standard of Practice Community Manager

At **all times** ensure that:

(a) The financial transactions of a client are current, accurate and properly documented; and

(b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:

- (1) **Proper maintenance of accounting records;**
- (2) Documentation of the authorization for any purchase orders, expenditures or disbursements;
- (3) Verification of the integrity of the data used in business decisions;
- (4) Facilitation of fraud detection and prevention; and
- (5) Compliance with all applicable laws and regulations governing financial records.

Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.

Association Records Management

Important Records to Keep on File



Common Association Records

Original Documents

- Public offering statement
- Plats, plans, maps, blueprints
- Geological reports (flood, soil, etc.)
- Articles of Incorporation and all amendments
- Declaration of Covenants, Conditions and Restrictions (CC&Rs) and all amendments

Association's Lifetime Documents

- Bylaws and all amendments
- Rules and regulations, policies
- Meeting
- Elections
- Financials
- Reserve Studies
- Insurances
- Employment
- Contracts
- Required per NRS's Statutes



Types of records created by Associations

- ▶ Legal filings (Secretary of State, Ombudsman)
- ▶ Meeting Minutes and related documents
- ▶ Inventory of property
- ▶ Insurance policies (and claims, if any)
- ▶ Reserve Studies
- ▶ Deeds and all real estate records
- ▶ Adopted policies & procedures
- ▶ Inspection & Investigation reports
- ▶ Violation records
- ▶ Financial, Audit and Tax records
- ▶ Contracts and warranties
- ▶ Newsletters
- ▶ Correspondence



People who may want to review various Association records

Unit owners

Executive Board Members

Independent certified public accountant

Community Managers

Reserve Study Specialists

Insurance Representatives

Contractors

Legal Counsel

Office of Ombudsman/Nevada Real Estate Division

Association Records Review



Unit Owners Access to Records

Availability of records

All financial and other records of the association must be:

(a) Maintained and made available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

* (b) Made reasonably available for any unit's owner and his or her authorized agents to inspect, examine, photocopy and audit.

Availability of records

The executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation:

- (a) The financial statement of the association;
- (b) The budgets of the association required to be prepared pursuant to [NRS 116.31151](#);
- (c) The study of the reserves of the association required to be conducted pursuant to [NRS 116.31152](#); and
- (d) All contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party.

(NRS 116.31175)

Owners Access to Records

- ▶ Records must be produced after receiving a written request
 - Available within 60 miles of the community during the association's regular working hours
 - Provided electronically at no charge, if available, or in paper format at a cost not to exceed \$0.25/page for the first 10 pages and \$0.10 per page thereafter
 - Certain records must be provided w/in 21 days or the Board can be fined \$25/day

- ▶ Viewing records
 - Associations cannot charge more than \$10/hour per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of subsection 1.



Delivery of Requested Information

Available to the units' owners electronically

Audio recorded

Electronic

Paper Format

Email pdf

Charge or no charge?

The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners.

Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners.

Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

A CD is not an electronic copy. It is a physical copy on electronic medium. Yes, they can charge.

Confidentiality

Confidentiality of records– CAM

A community manager shall not:

Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.

FYI: Requests for records (Do not apply)

The provisions of subsection 1 (previous slide) **do not apply to:**

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection 5; and

(c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board. (NRS 116.31175)

Executive Board confidentiality of records

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents,

Except as otherwise required by law or court order, disclosed confidential information relating to a unit's owner, a member of the executive board or an officer, employee or authorized agent of the association unless the disclosure is consented to by the person to whom the information relates;

Confidentiality of Violation Records of the Association

The General record

(b) **Must not** contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

NRS 116.31175 General records concerning certain violations

Records Needing Review

Executive Board Meeting Minutes

The secretary or other officer specified in the bylaws shall cause each meeting of the executive board to be audio recorded and the minutes to be recorded or otherwise taken at each meeting of the executive board, but if the **executive board is meeting in executive session**, the meeting **must not** be audio recorded.

Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the audio recording of the meeting, the minutes of the meeting and a summary of the minutes of the meeting to be made available to the units' owners.

Except as otherwise provided in this subsection, a copy of the audio recording, the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

Budget Records

The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, **make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter**

Budget Records

Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, **not less than 30 days or more than 60 days** before the beginning of the fiscal year of the association, prepare and **distribute** to each unit's owner a copy of:

(a) **The budget** for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association

The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties but not to exceed 60 miles from the physical location of the common-interest community; and

(b) Copies of the budgets will be provided upon request.

Executive Board Review:

At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

- (a) A current year-to-date financial statement of the association;
- (b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;
- (c) A current reconciliation of the operating account of the association;
- (d) A current reconciliation of the reserve account of the association;
- (e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and
- (f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

Reserve Study Records

The executive board shall:

- (a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;
- (b) At least annually, review the results of that study to determine whether those reserves are sufficient; and
- (c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

Types of Required Review: Independent certified public accountant review of financial records

NRS 116.31144 Audit and review of financial statements. The executive board shall:

(a) If the annual budget of the association is \$45,000 or more but less than \$75,000, cause the financial statement of the association to be reviewed by an **independent certified public accountant** during the year immediately preceding the year in which a study of the reserves of the association is to be conducted pursuant to [NRS 116.31152](#).

(b) If the annual budget of the association is \$75,000 or more but less than \$150,000, cause the financial statement of the association to be reviewed by an **independent certified public accountant** every fiscal year.

(c) If the annual budget of the association is \$150,000 or more, cause the financial statement of the association to be audited by an **independent certified public accountant** every fiscal year.

2. Except as otherwise provided in this subsection, for any fiscal year, the executive board of an association shall cause the financial statement for that fiscal year to be audited by an **independent certified public accountant** if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit. The provisions of this subsection do not apply to an association described in paragraph (c) of subsection 1.

Transfer of Records

Policy/Procedure for the complete and accurate transfer of records

- Declarant to Owners
 - NRS 116.31038
- Community Manager to Community Manager
 - Inventory of records/transition procedure
- Seller to Buyer
 - Public offering statement – NRS 116.4108
 - Resale package–NRS 116.4109



Failure to Provide Records

Failure to provide records

If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

Failure to provide records

If the executive board fails to provide a copy of any of the records pursuant to subsection 2 within 21 days, the executive board must pay a penalty of \$25 for each day the executive board fails to provide the records.

Association Records Storage



Storage

NRS 116.3118 Maintenance and availability of certain financial records necessary to provide information required for resale of units; right of units' owners to inspect, examine, photocopy and audit records of association.

1. The association shall keep financial records sufficiently detailed to enable the association to comply with [NRS 116.4109](#).

2. All financial and other records of the association must be:

(a) Maintained and made available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Made reasonably available for any unit's owner and his or her authorized agents to inspect, examine, photocopy and audit.

Contracted facility/document specialists

Electronic storage



How long to keep records

(NRS 116.31175)The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with [NRS 116.3108](#); or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with [NRS 116.31083](#).

NRS 116.3108 Meetings of units' owners of association 8. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community **is terminated**

NRS 116.31083 10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is **terminated.**

How long should records be kept?

- ▶ Tax files are maintained according to IRS
- ▶ Licenses and warranties are as long as they are in effect.
- ▶ When in doubt, DON'T throw it out!



Other Considerations

▶ **Purging records**

- Certain records, confidential information and other sensitive items may need to be destroyed in a secure fashion from time to time

▶ **Electronic records**

- Backing up computer files
- Technology becomes obsolete



**Unit Owners need to share
records with new purchasers**

A unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser

NRS 116.4109(1)(b)(d)(f)

- ▶ A statement from the association detailing:
 - amount of the monthly assessment
 - pending litigation, if any
 - any unpaid obligations
 - management fees
 - transfer fees
 - fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner
 - Must be provided w/in 10 days



Information statement:

Pursuant to provisions of [chapter 116](#) of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) **To inspect, examine, photocopy and audit financial and other records of the association.**

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

Summary

Records Management–aid in the achievement of efficient business practices and regulatory compliance.

Association Records–aid in maintaining day to day Association operations

Review of Records–Available with a written request

Storage and Removal of Records– The books, records and other papers of an association must be maintained for at least 10 years



Summary

Written record of all records

Verify that all records are up to date

Know who is handling records storage

Verify how records are being destroyed

Take control of your records management !



QUESTIONS?

- ▶ Web Site
 - www.red.nv.gov
- ▶ Phone
 - 702.486.4480/877.829.9907/775.687.4280
- ▶ FAX
 - 702.486.4520/775.687.4868
- ▶ E-Mail
 - OMBCLASSES@red.state.nv.us
- ▶ Office Locations
 - 2501 East Sahara Ave, Suite 202, Las Vegas, NV 89104
 - 1179 Fairview Drive, Suite E, Carson City, NV 89701



FAQ

Does the association need to keep the outer envelope that the ballot comes in?

Yes, as it proof of what unit had turned in ballot.

Reference Slides

NRS 116 Statute –Records filed with state agencies (d)

NRS 116.3101 Organization of unit-owners' association.

1. A unit-owners' association must be organized no later than the date the first unit in the common-interest community is conveyed.

2. The membership of the association at all times consists exclusively of all units' owners or, following termination of the common-interest community, of all owners of former units entitled to distributions of proceeds under [NRS 116.2118](#), [116.21183](#) and [116.21185](#), or their heirs, successors or assigns.

3. Except for a residential planned community containing not more than 12 units, the association must have an executive board.

4. The association must:

(a) Be organized as a profit or nonprofit corporation, association, limited-liability company, trust, partnership or any other form of organization authorized by the law of this State;

(b) Include in its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof, that the purpose of the corporation, association, limited-liability company, trust or partnership is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "common-interest community," "community association," "master association," "homeowners' association" or "unit-owners' association"; and

(d) Comply with the applicable provisions of [chapters 78, 81, 82, 86, 87, 87A, 88](#) and [88A](#) of NRS when **filing with the Secretary of State** its articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization, or any amendment thereof.

(Added to NRS by [1991, 556](#); A [2003, 20th Special Session, 130](#); [2005, 2590](#); [2007, 485](#); [2011, 2427](#))

NRS 116.31158 Registration of associations with Ombudsman; contents of form for registration.

1. Each association shall, at the time it pays the fee required by [NRS 116.31155](#), register with the Ombudsman on a form prescribed by the Ombudsman.

2. The form for registration must include, without limitation, the information required to be maintained pursuant to paragraph (e) of subsection 4 of [NRS 116.625](#).

(Added to NRS by [1999, 2996](#); A [2003, 2243](#))

Records created per NRS116 Records –Unit Owners Meeting Minutes

NRS 116.3108 Meetings of units' owners of association; frequency of meetings; calling special meetings; requirements concerning notice and agendas; requirements concerning minutes of meetings; right of units' owners to make audio recordings of meetings.

5. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. Except as otherwise provided in this subsection, a copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request, in electronic format at no charge to the unit's owner or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

6. Except as otherwise provided in subsection 7, the minutes of each meeting of the units' owners must include:

- (a) The date, time and place of the meeting;
- (b) The substance of all matters proposed, discussed or decided at the meeting; and
- (c) The substance of remarks made by any unit's owner at the meeting if the unit's owner requests that the minutes reflect his or her remarks or, if the unit's owner has prepared written remarks, a copy of his or her prepared remarks if the unit's owner submits a copy for inclusion.

7. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

8. The association shall maintain the minutes of each meeting of the units' owners until the ~~common-interest community~~ is terminated.

Records created per NRS116 Statute Records – Budget/Collection of Fees

NRS 116.31151 Annual distribution to units' owners of operating and reserve budgets or summaries of such budgets and policy for collection of fees, fines, assessments or costs; ratification of budget.

1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, **not less than 30 days or more than 60 days** before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of [NRS 116.3115](#). The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(2) **As of the end of the fiscal year for which the budget is prepared**, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by [NRS 116.31152](#).

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) **The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties but not to exceed 60 miles from the physical location of the common-interest community; and**

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, **make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter.** The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.

(Added to NRS by [1999, 2993](#); A [2003, 2241](#); [2005, 2605](#); [2009, 1205](#), [1735](#), [2806](#))

Records created per NRS116 Records –Reserve Studies

NRS 116.31152 Study of reserves; duties of executive board regarding study; qualifications of person who conducts study; contents of study; submission of summary of study to Division; use of money credited against residential construction tax for upkeep of park facilities and related improvements identified in study.

1. The executive board shall:

(a) At least **once every 5 years**, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. Except as otherwise provided in this subsection, the study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to [chapter 116A](#) of NRS. If the common-interest community contains 20 or fewer units and is located in a county whose population is less than 55,000, the study of the reserves required by subsection 1 may be conducted by any person whom the executive board deems qualified to conduct the study.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(b) An identification of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore identified pursuant to paragraph (b);

(d) An estimate of the cost of maintenance, repair, replacement or restoration of each major component of the common elements and any other portion of the common-interest community identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of maintaining, repairing, replacement or restoration of the major components of the common elements and any other portion of the common-interest community identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to [chapter 278A](#) of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to [NRS 278.4983](#) and [278.4985](#), the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

(Added to NRS by [1999, 2994](#); A [2003, 2241](#); [2005, 2606](#); [2009, 1736, 2213](#); [2011, 1144](#))

As a custodian of records Community Managers must adhere to standards

NRS 116A.630 Standards of practice for community managers. In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to [NRS 116A.400](#), a community manager shall:

6. At **all times** ensure that:

- (a) The financial transactions of a client are current, accurate and properly documented; and
- (b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:

- (1) **Proper maintenance of accounting records;**
- (2) Documentation of the authorization for any purchase orders, expenditures or disbursements;
- (3) Verification of the integrity of the data used in business decisions;
- (4) Facilitation of fraud detection and prevention; and
- (5) Compliance with all applicable laws and regulations governing financial records.

7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.

8. Cause to be prepared, if required by the Division, a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.

9. **Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.**

11. **Upon written request**, make the **financial records of an association available** to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.

20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the client.

21. **Develop written collection** policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:

- (a) That the executive board approve all write-offs of debt; and
- (b) That the community manager provide timely updates and reports as necessary.

(Added to NRS by [2009, 2814](#))

Records created per NRS116 Records –Violations

NRS 116.31175 General records concerning certain violations

5. The executive board of an association **shall maintain** a **general record** concerning **each violation of the governing documents**, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction.

The **general record**:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) **Must not contain the name or address of the person** against whom the sanction was imposed or **any other personal information** which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) **Must be** maintained in an **organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.**

Availability of records

NRS 116.31175 Maintenance and availability of books, records and other papers of association: General requirements; exceptions; general records concerning certain violations; enforcement by Ombudsman; limitations on amount that may be charged to conduct review.

1. Except as otherwise provided in subsection 4, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation:

(a) The financial statement of the association;

(b) The budgets of the association required to be prepared pursuant to [NRS 116.31151](#);

(c) The study of the reserves of the association required to be conducted pursuant to [NRS 116.31152](#); and

(d) All contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party.

Availability of records

NRS 116.3118 Maintenance and availability of certain financial records necessary to provide information required for resale of units; right of units' owners to inspect, examine, photocopy and audit records of association.

1. The association shall keep financial records sufficiently detailed to enable the association to comply with [NRS 116.4109](#).

2. All financial and other records of the association must be:

(a) Maintained and made available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

*** (b) Made reasonably available for any unit's owner and his or her authorized agents to inspect, examine, photocopy and audit.**

(Added to NRS by [1991, 571](#); A [1995, 2231](#); [2003, 2247](#))

NRS 116.31175 Maintenance and availability of books, records and other papers of association: General requirements; exceptions; general records concerning certain violations; enforcement by Ombudsman; limitations on amount that may be charged to conduct review.

1. Except as otherwise provided in subsection 4, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review at the business office of the association or a designated business location not to exceed 60 miles from the physical location of the common-interest community and during the regular working hours of the association, including, without limitation:

- (a) The financial statement of the association;
- (b) The budgets of the association required to be prepared pursuant to [NRS 116.31151](#);
- (c) The study of the reserves of the association required to be conducted pursuant to [NRS 116.31152](#); and
- (d) All contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party.

2. The executive board shall provide a copy of any of the records described in paragraphs (a), (b) and (c) of subsection 1 to a unit's owner or the Ombudsman within 21 days after receiving a written request therefor. Such records must be provided in electronic format at no charge to the unit's owner or, if the association is unable to provide the records in electronic format, the executive board may charge a fee to cover the actual costs of preparing a copy, but the fee may not exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter.

3. If the executive board fails to provide a copy of any of the records pursuant to subsection 2 within 21 days, the executive board must pay a penalty of \$25 for each day the executive board fails to provide the records.

4. The provisions of subsection 1 do not apply to:

- (a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;
- (b) The records of the association relating to another unit's owner, including, without limitation, any architectural plan or specification submitted by a unit's owner to the association during an approval process required by the governing documents, except for those records described in subsection 5; and
- (c) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:
 - (1) Is in the process of being developed for final consideration by the executive board; and
 - (2) Has not been placed on an agenda for final approval by the executive board.

7. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

- (a) The minutes of a meeting of the units' owners which must be maintained in accordance with [NRS 116.3108](#); or
- (b) The minutes of a meeting of the executive board which must be maintained in accordance with [NRS 116.31083](#).

8. The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of subsection 1.

(Added to NRS by [1999, 2996](#); A [2003, 2245](#); [2009, 1737](#), [2807](#), [2894](#), [2928](#); [2011, 1879](#), [2451](#))

Requesting Records Per NRS Statutes

NRS 116A.630 Standards of practice for community managers.

11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holiday

Failure to provide records

NRS 116.31175 Maintenance and availability of books, records and other papers of association: General requirements; exceptions; general records concerning certain violations; enforcement by Ombudsman; limitations on amount that may be charged to conduct review.

6. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

Failure to provide records

NRS 116.31175 Maintenance and availability of books, records and other papers of association: General requirements; exceptions; general records concerning certain violations; enforcement by Ombudsman; limitations on amount that may be charged to conduct review.

3. If the executive board fails to provide a copy of any of the records pursuant to subsection 2 within 21 days, the executive board must pay a penalty of \$25 for each day the executive board fails to provide the records.

NRS 116.31175 Maintenance and availability of books, records and other papers of association: General requirements; exceptions; general records concerning certain violations; enforcement by Ombudsman; limitations on amount that may be charged to conduct review.

5. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

6. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If the Ombudsman is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

7. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with [NRS 116.3108](#); or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with [NRS 116.31083](#).

8. The executive board shall not require a unit's owner to pay an amount in excess of \$10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of subsection 1.

(Added to NRS by [1999, 2996](#); A [2003, 2245](#); [2009, 1737](#), [2807](#), [2894](#), [2928](#); [2011, 1879](#), [2451](#))

NRS 116.31083 Meetings of executive board; frequency of meetings; periodic review of certain financial and legal matters at meetings; requirements concerning minutes of meetings; right of units' owners to make audio recordings of certain meetings

6. At least once every quarter, and not less than once every 100 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

- (a) A current year-to-date financial statement of the association;
- (b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;
- (c) A current reconciliation of the operating account of the association;
- (d) A current reconciliation of the reserve account of the association;
- (e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and
- (f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.



NRS 116 –Declarant Records

NRS 116.31038 Delivery to association of property held or controlled by declarant.

In addition to any applicable requirement set forth in [NRS 116.310395](#), within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by the declarant, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of the last audit of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.

3. A complete study of the reserves of the association, conducted by a person who is registered as a reserve study specialist pursuant to [chapter 116A](#) of NRS. At the time the control of the declarant ends, the declarant shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, the declarant has failed to pay his or her share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which the declarant has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

(Added to NRS by [1993, 2354](#); A [1999, 3002](#); [2001, 2490](#); [2005, 2597](#); [2009, 2918](#))

Reporting with sales of units

New Development:

- NRS 116.4102 Liability for preparation and delivery of public offering statement
- NRS 116.4103–Public Offering Statement New developments

Resale of Units:

- ▶ NRS 116.4109 Resale package
- ▶ NRS 116.41095 “Did you know...” Information Statement



NRS 116.4103 Public offering statement: General provisions.

1. Except as otherwise provided in [NRS 116.41035](#), a public offering statement must set forth or fully and accurately disclose each of the following:
 - (a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is a condominium, cooperative or planned community.
 - (b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.
 - (c) The estimated number of units in the common-interest community.
 - (d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat is not required.
 - (e) The financial information required by subsection 2.
 - (f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget that the declarant provides, or expenses which the declarant pays and which the declarant expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit.
 - (g) Any initial or special fee due from the purchaser or seller at closing, including, without limitation, any transfer fees, whether payable to the association, the community manager of the association or any third party, together with a description of the purpose and method of calculating the fee.
 - (h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.
 - (i) A statement that unless the purchaser or his or her agent has personally inspected the unit, the purchaser may cancel, by written notice, his or her contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.
 - (j) A statement of any unsatisfied judgment or pending action against the association, and the status of any pending action material to the common-interest community of which a declarant has actual knowledge.
 - (k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.
 - (l) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.
 - (m) Any restraints on alienation of any portion of the common-interest community and any restrictions:
 - (1) On the leasing or renting of units; and
 - (2) On the amount for which a unit may be sold or on the amount that may be received by a unit's owner on the sale or condemnation of or casualty loss to the unit or to the common-interest community, or on termination of the common-interest community.
 - (n) A description of any arrangement described in [NRS 116.1209](#) binding the association.
 - (o) The information statement set forth in [NRS 116.41095](#).
 2. The public offering statement must contain any current balance sheet and a projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget must include:
 - (a) A statement of the amount included in the budget as a reserve for repairs, replacement and restoration pursuant to [NRS 116.3115](#);
 - (b) A statement of any other reserves;
 - (c) The projected common expense assessment by category of expenditures for the association; and
 - (d) The projected monthly common expense assessment for each type of unit, including the amount established as reserves pursuant to [NRS 116.3115](#).
 3. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of [NRS 116.4103](#) and [116.4105](#)) MAY NOT BE REFLECTED IN THIS STATEMENT."
- (Added to NRS by [1991, 572](#); A [1993, 2375](#); [1997, 3122](#); [1999, 3012](#); [2005, 2612](#); [2009, 1616](#), [2809](#); [2011, 2453](#))

Requirement of Public Offering Statement

NRS 116.4102 Liability for preparation and delivery of public offering statement.

1. Except as otherwise provided in subsection 2, a declarant, before offering any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of [NRS 116.4103](#) to [116.4106](#), inclusive.

2. A declarant may transfer responsibility for the preparation of all or a part of the public offering statement to a successor declarant pursuant to [NRS 116.3104](#) and [116.31043](#), or to a dealer who intends to offer units in the common-interest community. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection 1.

3. Any declarant or dealer who offers a unit to a purchaser shall deliver a public offering statement in the manner prescribed in subsection 1 of [NRS 116.4108](#). The declarant or his or her transferee under subsection 2 is liable under [NRS 116.4108](#) and [116.4117](#) for any false or misleading statement set forth therein or for any omission of a material fact therefrom with respect to that portion of the public offering statement which he or she prepared. If a declarant or dealer did not prepare any part of a public offering statement that he or she delivers, he or she is not liable for any false or misleading statement set forth therein or for any omission of a material fact therefrom unless he or she had actual knowledge of the statement or omission or, in the exercise of reasonable care, should have known of the statement or omission.

4. If a unit is part of a common-interest community and is part of any other real estate in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of [NRS 116.4103](#) to [116.4106](#), inclusive, as those requirements relate to the real estate in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing two or more public offering statements. If the requirements of this chapter conflict with those of another law of this State, the requirements of this chapter prevail.

(Added to NRS by [1991, 571](#); A [1993, 2374](#); [2001, 2493](#))

Resale Package

NRS 116.4109

- ▶ A copy of the declaration (excluding plats) the bylaws, the rules or regulations and the information statement
- ▶ A copy of the current operating budget, current year-to-date financial statement, including a summary of the reserves and a summary of the information in the reserve study
- ▶ Certificate and Demand Statement
- ▶ Note: Resale packages are typically not provided in foreclosure sales



NRS 116.4109 Resales of units.

1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of [NRS 116.4101](#), a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by [NRS 116.41095](#).

(b) A statement from the association setting forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner.

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by [NRS 116.31152](#) and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of [NRS 116.31152](#).

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit.

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d), (e) and (f) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The other documents furnished pursuant to subsection 3 must be provided in electronic format to the unit's owner. The association may charge the unit's owner a fee, not to exceed \$20, to provide such documents in electronic format. If the association is unable to provide such documents in electronic format, the association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter, to cover the cost of copying.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

NRS 116.4109 Resales of units. (continued)

- ▶ 5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the purchaser is not liable for the delinquent assessment.
- ▶ 6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by [NRS 116.31152](#) reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.
- ▶ 7. A unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit may request a statement of demand from the association. Not later than 10 days after receipt of a written request from the unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit for a statement of demand, the association shall furnish a statement of demand to the person who requested the statement. The association may charge a fee of not more than \$150 to prepare and furnish a statement of demand pursuant to this subsection and an additional fee of not more than \$100 to furnish a statement of demand within 3 days after receipt of a written request for a statement of demand. The statement of demand:
 - ▶ (a) Must set forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner; and
 - ▶ (b) Remains effective for the period specified in the statement of demand, which must not be less than 15 business days after the date of delivery by the association to the unit's owner, the authorized agent of the unit's owner or the holder of a security interest on the unit, whichever is applicable.
- ▶ 8. If the association becomes aware of an error in a statement of demand furnished pursuant to subsection 7 during the period in which the statement of demand is effective but before the consummation of a resale for which a resale package was furnished pursuant to subsection 1, the association must deliver a replacement statement of demand to the person who requested the statement of demand. Unless the person who requested the statement of demand receives a replacement statement of demand, the person may rely upon the accuracy of the information set forth in the statement of demand provided by the association for the resale. Payment of the amount set forth in the statement of demand constitutes full payment of the amount due from the selling unit's owner.
- ▶ (Added to NRS by [1991, 575](#); A [1993, 2376](#); [1997, 3124](#); [2001, 2494](#); [2003, 2247](#); [2005, 2614](#); [2009, 1102](#), [1617](#), [2810](#), [2819](#); [2011, 2047](#), [2455](#), [3542](#); [2013, 3792](#))

NRS 116.41095 Required form of information –Did you know (continued)

3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?

- As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

- If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

5. YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

- Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional community managers to carry out these responsibilities.

- Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common-Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.

6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

- The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.

7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?

- Pursuant to provisions of [chapter 116](#) of Nevada Revised Statutes, you have the right:

- (a) To be notified of all meetings of the association and its executive board, except in cases of emergency.
- (b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.
- (c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.
- (d) To inspect, examine, photocopy and audit financial and other records of the association.
- (e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

8. QUESTIONS?

- Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials:_____

Date: _____

(Added to NRS by [1997, 3114](#); [A 1999, 3013](#); [2003, 2248](#); [2005, 2616](#); [2007, 2269](#); [2009, 1738](#))

NRS 116.41095 Required form of information statement. The information statement required by [NRS 116.4103](#) and [116.4109](#) must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A
COMMON-INTEREST COMMUNITY
DID YOU KNOW . . .

1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?

When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.

2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you. Certain provisions in the CC&Rs and other governing documents may be superseded by contrary provisions of [chapter 116](#) of the Nevada Revised Statutes. The Nevada Revised Statutes are available at the Internet address <http://www.leg.state.nv.us/nrs/>.

NRS 116.31152 Study of reserves; duties of executive board regarding study; qualifications of person who conducts study; contents of study; submission of summary of study to Division; use of money credited against residential construction tax for upkeep of park facilities and related improvements identified in study.

1. The executive board shall:

(a) At least **once every 5 years**, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(b) At least **annually, review** the results of that study to determine whether those reserves are sufficient; and

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. Except as otherwise provided in this subsection, the study of the reserves required by subsection 1 must be conducted by a person who holds a permit issued pursuant to [chapter 116A](#) of NRS. If the common-interest community contains 20 or fewer units and is located in a county whose population is less than 55,000, the study of the reserves required by subsection 1 may be conducted by any person whom the executive board deems qualified to conduct the study.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division **not later than 45 days** after the date that the executive board adopts the results of the study.

Confidentiality of records– CAM

NRS 116A.640 Community manager prohibited from engaging in certain acts; exceptions. In addition to the standards of practice for community managers set forth in [NRS 116A.630](#) and any additional standards of practice adopted by the Commission by regulation pursuant to [NRS 116A.400](#), a community manager **shall not**:

1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.

Violations General Records

The executive board of an association **shall maintain a general record** concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction.

The **general record**:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) **Must not contain the name or address of the person** against whom the sanction was imposed or **any other personal information** which may be used to **identify** the person or the location of the unit, if any, that is associated with the violation.

(c) **Must be** maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

NAC 116.405 Executive board: Determination by Commission of whether members have performed their duties. ([NRS 116.3103](#), [116.615](#))
In determining whether a member of the executive board has performed his or her duties pursuant to [NRS 116.3103](#), the Commission may consider whether the member of the executive board has:

1. Acted outside the scope of the authority granted in the governing documents;
2. Acted for reasons of self-interest, gain, prejudice or revenge;
3. Committed an act or omission which amounts to incompetence, negligence or gross negligence;
4. Except as otherwise required by law or court order, disclosed confidential information relating to a unit's owner, a member of the executive board or an officer, employee or authorized agent of the association unless the disclosure is consented to by the person to whom the information relates;
5. Impeded or otherwise interfered with an investigation of the Division by:
 - (a) Failing to comply with a request by the Division to provide information or documents;
 - (b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or
 - (c) Concealing any facts or documents relating to the business of the association;
6. Kept informed of laws, regulations and developments relating to common-interest communities;
7. Cooperated with the Division in resolving complaints filed with the Division; and
8. Caused the association to:
 - (a) Comply with all applicable federal, state and local laws and regulations and the governing documents of the association;
 - (b) Uniformly enforce the governing documents of the association;
 - (c) Hold meetings of the executive board with such frequency as to properly and efficiently address the affairs of the association;
 - (d) Obtain, when practicable, at least three bids from reputable service providers who possess the proper licensing before purchasing any such service for use by the association;
 - (e) Consult with appropriate professionals as necessary before making any major decision affecting the association or the common elements;
 - (f) Deposit all funds of the association for investment in government securities that are backed by the full faith and credit of the United States or in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Securities Investor Protection Corporation or a private insurer approved pursuant to [NRS 678.755](#);
 - (g) Maintain current, accurate and properly documented financial records;
 - (h) Establish policies and procedures for the disclosure of potential conflicts of interest and the appropriate manner by which to resolve such conflicts;
 - (i) Establish policies and procedures that are designed to provide reasonable assurances in the reliability of financial reporting, including, without limitation, proper maintenance of accounting records, documentation of the authorization for receipts and disbursements, verification of the integrity of the data used in making business decisions, facilitation of fraud detection and prevention, and compliance with the applicable laws and regulations governing financial records;
 - (j) Prepare interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of the association is fairly presented in accordance with the provisions of [NAC 116.451](#) to [116.461](#), inclusive;
 - (k) Make the financial records of the association available for inspection by the Division in accordance with the applicable laws and regulations of this State;
 - (l) Cooperate with the Division in resolving complaints filed with the Division; and
 - (m) Adopt and fairly enforce the collection policies of the association.

(Added to NAC by Comm'n for Common-Interest Communities by R129-04, eff. 4-14-2005; A by Comm'n for Common-Interest Communities & Condo. Hotels by R129-08, 4-20-2010)